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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,654

12/13/2004

Junichi Atsuta

1419.1100

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21171

7590

08/31/2006

STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,654	<b>Applicant(s)</b> ATSUTA, JUNICHI	
	<b>Examiner</b> Timothy R. Waggoner	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 7, 10-13, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 9 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/07/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 5-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marrocco USPN 5,996,841 in view of Mewborne USPN 4,722,577.

Marrocco discloses a dispenser comprising:

(Re claim 5) "a packaged commodity dispensing machine" (30 figure 2). "a first frame having a first inlet and a first inner space, wherein the packaged commodity dispensing machine is detachably movable" (figure 2). "a member to removably engage the packaged commodity dispensing machine" (72 figure 5).

Marrocco does not disclose there being aligned openings in the top of the frame and in the commodity dispenser.

Mewborne teaches a frame with an opening in communication with an opening of the commodity dispenser. (figure 2)

It would be obvious to one skilled in the art to have an opening in the frame to be in communication with an opening in the commodity dispenser because it prevents the need of removing the dispenser from the frame itself.

(Re claim 7) "a commodity display which is attached to the first frame" (21 figure 1, Marrocco).

(Re claim 10) "a base which is permitted to detachably be fixed to a bottom of the frame" (70 figure 9)

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marrocco as modified by Mewborne as applied to claim 5 above, and further in view of Malaspina USPN 5,544,784.

Marrocco as modified by Mewborne discloses the invention in claim 5.

Marrocco as modified by Mewborne does not disclose the use of a container collector.

Malaspina teaches the use of a container collector removably located in the base of a dispenser.

It would be obvious to one skilled in the art to further modify Marrocco as modified by Mewborne to include a container collector because it allows for recycling of the used product.

Claim 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marrocco USPN 5,996,841 in view of Kovens et al. USPN 6,182,861.

(Re claim 13) Marrocco discloses: "a packaged commodity dispensing machine" (30 figure 2). "a first frame having a first inlet and a first inner space, wherein the

packaged commodity dispensing machine is detachably movable" (figure 2). "a member to removably engage the packaged commodity dispensing machine" (72 figure 5).

Marrocco does not disclose a front wall of the packaged commodity dispensing machine is formed with a transparent material, and a arch shaped wall portion.

Kovens teaches a front wall of the packaged commodity dispensing machine is formed with a transparent material, and a arch shaped wall portion. (figure 2, Kovens)

It would be obvious to one skilled in the art to modify Marrocco to include a front arched portion as taught by Kovens because it is aesthetically pleasing.

(Re claim 18) Marrocco discloses: "a packaged commodity dispensing machine" (30 figure 2). "a first frame having a first inlet and a first inner space, wherein the packaged commodity dispensing machine is detachably movable" (figure 2). "a member to removably engage the packaged commodity dispensing machine" (72 figure 5).

Marrocco does not disclose a front and a side wall being made of a transparent material that meet at a rounded corner.

Kovens teaches a front and a side wall being made of a transparent material that meet at a rounded corner. (figure 2, Kovens)

It would be obvious to one skilled in the art to modify the dispenser of Marrocco to included a sidewall and a front wall which meet at a rounded corner because it provides an un interrupted view of the products in the dispenser.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marrocco USPN 5,996,841 in view of Ellis et al. USPN 6,293,434.

Marrocco discloses: "a packaged commodity dispensing machine" (30 figure 2). "a first frame having a first inlet and a first inner space, wherein the packaged commodity dispensing machine is detachably movable" (figure 2). "a member to removably engage the packaged commodity dispensing machine" (72 figure 5).

Marrocco does not disclose an inspection hole formed in the rear surface of the first frame.

Ellis teaches an inspection hole formed in the rear surface of the first frame.

It would be obvious to one skilled in the art to modify the rear of the frame of Marrocco and include an inspection hole because it allows added access to the dispensers.

#### ***Allowable Subject Matter***

Claims 6,8,9 and 14-17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 06/07/2006 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

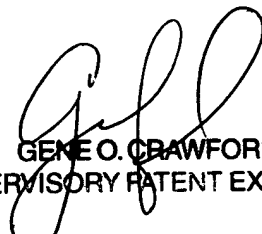
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRW

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER